

November 30, 2011

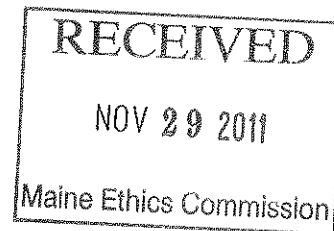
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November 29, 2011

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Via email and U.S. Postal Service



Dear Director Wayne:

Please accept this letter in response to the complaint filed by Representative Donald Pilon against my client Representative Linda Valentino.

Representative Pilon's complaint relates to an office opened by Representative Valentino on Main Street in Saco. This complaint appears on the Commission's agenda for the meeting on November 30th.

As a preliminary comment, Representative Valentino has handled the opening of her office in an exemplary way. She has violated no law or rule. More fundamentally, she has gone out of her way to ensure that she is in complete compliance with any requirements that might apply. Representative Valentino voluntarily approached the Commission for guidance well before opening her office and before this complaint was filed. Since then she has followed the advice of Commission staff to a "T", and that advice was legally correct. In short, Representative Valentino has demonstrated the kind of integrity, transparency and cooperation that serves as an example to other legislators and candidates.

Turning to the issue raised by Representative Pilon, the relevant facts are fairly simple. Representative Valentino is serving her fourth term, and is also a candidate for election in Senate District 5, which includes Saco.¹ Motivated in part by a desire to facilitate her communication with the people of Saco, Representative Valentino wished to open a storefront office space in a central location convenient to her constituents and all the people of the area. After extensive consultation with Commission staff, including an exchange of detailed letters, Representative Valentino signed a rental agreement for an office.

¹ Senate District 5 Includes Buxton, Dayton, Old Orchard Beach, Saco and part of Biddeford.

The space which Representative Valentino chose for her office is on the first floor of the building at 199 Main Street in Saco. This block of Main Street is the hub of commercial activity for the town of Saco. It is the most convenient, centrally located area for the people of the town. The United States Post Office for Saco is in this block. The office space rented by Representative Valentino is within the geographic boundaries of Senate District 5, and just six-tenths of one mile from the nearest neighborhood where her current legislative constituents reside.

As explained to the Commission during her previous inquiries, Representative Valentino intends to use the office for multiple purposes, including campaign-related business, legislative business, and personal business of herself and family members. Following the advice of Commission staff, Representative Valentino has established a record-keeping system to allow her to fully and accurately record the amount of time that the office and its furnishings are used for each of these distinct functions, as may be required for reporting purposes.

There is nothing unusual about a legislator choosing a central location for constituent meetings. A great number of legislators hold "office hours" or "forums" in locations convenient for their constituents and/or voters. Many legislative districts include only a portion of a town, and in such cases it is quite common for the legislator to hold office hours or constituent meetings in a convenient place near the center of town regardless of whether that location is within the geographic boundaries of the district. (See, for example, Attachment A, showing State Representatives scheduling constituent meetings at locations outside the boundaries of their districts for the convenience of their constituents.) There is nothing improper, illegal or unethical about the choices a legislator or candidate might make in this regard. In fact, it is commendable for an elected official (or candidate) to make herself readily available to the people she represents or seeks to represent at locations convenient to the greatest number of residents.

Likewise, Representative Valentino's decision to use a single office for personal, legislative and campaign purposes is not unusual or improper. Maine's citizen-legislators rarely if ever use a single-purpose "constituent" or "campaign" office. Maine has a long history of legislators and candidates simultaneously using their home or professional office (or other space) to conduct all variety of business. A great number of current Maine legislators and candidates do this on a daily basis.

As the memo from Executive Director Wayne confirms, nothing in Maine law regulates the ability of a legislator or candidate to have an office. Likewise, nothing in Maine law regulates the location where a legislator or candidate may have that office or meet with constituents or potential voters.

The legal allegations in Representative Pilon's complaint are somewhat unclear. The focus of the complaint is Representative Valentino's office, but the letter does not cite any law or regulation. The only issue that could conceivably arise is whether Representative Valentino's Senate campaign is receiving an unreported in-kind "contribution" of free office space. As explained below, that allegation has no merit whatsoever.

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Under Title 21-A, “[t]he use of offices, telephones, computers and similar equipment [is not a ‘contribution’] when that use does not result in additional cost to the provider . . .” 21-A M.R.S.A. § 1012(2)(B)(9). Thus, state law clearly contemplates that a legislative candidate’s campaign may use office space and equipment that is also used for other purposes. If the use results in no additional cost, that is the end of the matter.

If, however, the use does result in additional costs, the campaign of a publicly funded candidate is required to reimburse for those costs. Here, that is precisely what Representative Valentino is doing. Following the common sense advice from Commission staff, she has agreed to have her campaign pay the cost of the office space in proportion to her use of the space for campaign purposes.

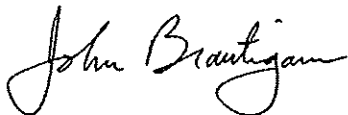
That staff is reinforced by the Commission’s *2010 Candidate Guide*, which explains that in-kind contributions are “goods and services that are provided to the campaign *at no cost* . . .” Since Representative Valentino’s campaign is paying to use the office, it is not being provided “at no cost.” Therefore, the use of the office is not an in-kind “contribution.”

Representative Valentino and her campaign have been exemplary in her handling of her office. If anyone wishes to scrutinize Representative Valentino’s treatment of her office in her campaign finance reports, that is their prerogative. But that is not the situation here. The office has barely been opened, and there is no report to scrutinize. No reports are due until January 17, 2012 at the earliest.

There is simply no justification for the Commission to expend its limited investigative resources to further pursue this matter. I respectfully ask that you dismiss the “complaint” filed by Representative Pilon and make a finding in favor of Representative Valentino.

I will be present at the Commission meeting on November 30th to address any questions you may have.

Sincerely yours,

A handwritten signature in cursive script that reads "John Brautigam". The signature is written in dark ink and is positioned above the printed name.

John Brautigam

cc: Hon. Donald Pilon

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Attachment A

Dear Friends and Neighbors,

I'm writing to let you know about several legislative forums we have organized locally over the next few weeks. Please join us at any of them. The times and locations are as follows:

- Nov 12 (Sat) – Legislative Update and Discussion, Chebeague Island Hall, 9:30-11:00am (Sen. Woodbury, Rep. Strang Burgess)
- Nov 16 (Wed) – Legislative Update and Discussion, Gray Town Hall, 7:00-8:30pm (Sen. Woodbury, Rep. Bryant, Rep. Graham) ←
- Nov 17 (Thurs) – Legislative Update and Discussion, North Yarmouth Town Hall, 7:00-8:30pm (Sen. Woodbury, Rep. Graham, Rep. Strang Burgess) ←
- Dec 5 (Mon) – Legislative Update, Yarmouth Rotary Club, Yarmouth Town Hall, 7:15-8:45am (Sen. Woodbury)
- Dec 6 (Tues) – Legislative Update and Discussion, Cumberland Town Hall, 7:00-8:30pm (Sen. Woodbury, Rep. Strang Burgess)
- Dec 9 (Fri) – Legislative Update and Discussion, Falmouth Memorial Library, 7:30-9:00am (Sen. Woodbury, Rep. Dion, Rep. Nelson) ←

Also, please remember to vote in the referendum election today. More information about the questions is available at [Maine Citizen's Guide to the Referendum Election](#).

Sincerely,

Dick Woodbury

State Senator

Note: If you would prefer not to receive occasional email from me with legislative updates and information, please let me know.